

11/12/2024

LAURA A. AUSTIN, CLERK
BY: s/ CARMEN AMOS
DEPUTY CLERK**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

STANLEY LEE BROWN

Plaintiff,

v.

THE CITY OF LYNCHBURG, ET AL.

Defendant.

CASE No. 6:24-cv-00039

ORDER TO SHOW CAUSE

JUDGE NORMAN K. MOON

More than 90 days have passed since the filing of Plaintiff's Complaint (Dkt. 1) on July 18, 2024, but Plaintiff has failed to file any proof of service on Defendant Virginia State Trooper John Roe. A 70-day notice was issued on September 27, 2024 (Dkt. 18) giving Plaintiff until October 16, 2024 to perfect service on Roe. Plaintiff filed an Amended Complaint on October 1, 2024 (Dkt. 19) but filing of an amended complaint does not restart the 90-day period provided by Rule 4(m). *See, e.g. Mason v. Lewis Contr. Servs., LLC*, 2019 U.S. Dist. LEXIS 95869, *3 (W.D. Va. 2019).

When a defendant is not served within 90 days of filing, "the court....must dismiss the action without prejudice against that defendant or order that service be made within a specified time." *Fed. R. Civ. P. 4(m)*. "But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." *Id.*

Plaintiff is **ORDERED** to **SHOW CAUSE** within **ten (10) days** of this Order why this action should not be dismissed against Roe for failure to properly effect service pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

It is so **ORDERED**.

The Clerk of the Court is hereby directed to send this Order to all counsel of record.

Entered this 12th day of November, 2024.



NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE